

AMENDED IN SENATE MARCH 12, 2014

SENATE BILL

No. 944

Introduced by Senator Torres

February 5, 2014

An act to amend ~~Section~~ *Sections 11011.1 and 11011.15* of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 944, as amended, Torres. Surplus state property.

Existing law requires the Department of General Services to dispose of surplus state real property in a specified manner, including, but not limited to, prescribing the priority of disposition of the property before the department offers it for sale to private entities or individuals. *Existing law declares that the provision of decent housing for all Californians is a state goal of the highest priority and that priority be given to the disposal of surplus state real property to housing for persons and families of low or moderate income.*

This bill would ~~make technical, nonsubstantive changes to these provisions.~~ *add to those goals the creation of sustainable jobs and state the intent that priority be given to the disposal of surplus state real property to the development of projects that create sustainable employment opportunities of benefit to the area and region where the property is located. This bill would, notwithstanding any other law, prohibit a local government from rezoning state real property within its jurisdiction that is declared surplus or identified as unused, underutilized, partially utilized, or excess, unless the Department of General Services requests that the property be rezoned or approves the rezoning. This bill would also make technical, nonsubstantive changes to these provisions.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11011.1 of the Government Code is
2 amended to read:

3 11011.1. (a) Notwithstanding any other law, except Article
4 8.5 (commencing with Section 54235) of Chapter 5 of Part 1 of
5 Division 2 of Title 5, the disposal of surplus state real property by
6 the Department of General Services is subject to the requirements
7 of this section. For purposes of this section, “surplus state real
8 property” means real property declared surplus by the Legislature
9 and directed to be disposed of by the Department of General
10 Services, including any real property previously declared surplus
11 by the Legislature but not yet disposed of by the Department of
12 General Services prior to the enactment of this section.

13 (b) (1) The department may dispose of surplus state real
14 property by sale, lease, exchange, a sale combined with an
15 exchange, or other manner of disposition of property, as authorized
16 by the Legislature, upon any terms and conditions and subject to
17 any reservations and exceptions the department deems to be in the
18 best interests of the state.

19 (2) (A) The Legislature finds and declares that the provision
20 of decent housing for all Californians ~~is a state goal and the~~
21 *creation of sustainable jobs are state goals* of the highest priority.
22 The disposal of surplus state real property is a direct and substantial
23 public purpose of statewide concern and will serve an important
24 public purpose, including mitigating the environmental effects of
25 state activities. Therefore, it is the intent of the Legislature that
26 priority be given, as specified in this section, to the disposal of
27 surplus state real property to housing for persons and families of
28 low or moderate income, where land is suitable for housing and
29 there is a need for housing in the ~~community~~. *community, and to*
30 *the development of projects that create sustainable employment*
31 *opportunities of benefit to the area and region where the property*
32 *is located.*

33 (B) Surplus state real property that has been determined by the
34 department not to be needed by any state agency shall be offered
35 to any local agency, as defined in subdivision (a) of Section 54221,

1 and then to nonprofit affordable housing sponsors, before being
2 offered for sale to private entities or individuals. As used in this
3 subdivision, “nonprofit affordable housing sponsor” means any
4 of the following:

5 (i) A nonprofit corporation incorporated pursuant to Division
6 2 (commencing with Section 5000) of Title 1 of the Corporations
7 Code.

8 (ii) A cooperative housing corporation which is a stock
9 cooperative, as defined by Section 11003.2 of the Business and
10 Professions Code.

11 (iii) A limited-dividend housing corporation.

12 (C) The department, subject to this section, shall maintain a list
13 of surplus state real property in a conspicuous place on its Internet
14 Web site. The department shall provide local agencies and, upon
15 request, members of the public, with electronic notification of
16 updates to the list of properties.

17 (D) To be considered as a potential priority buyer of the surplus
18 state real property, a local agency or nonprofit affordable housing
19 sponsor shall notify the department of its interest in the surplus
20 state real property within 90 days of the department posting on its
21 Internet Web site the notice of the availability of the surplus state
22 real property. The local agency or nonprofit affordable housing
23 sponsor shall demonstrate, to the satisfaction of the department,
24 that the surplus state real property, or portion of that surplus state
25 real property, is to be used by the local agency or nonprofit
26 affordable housing sponsor for open space, public parks, affordable
27 housing projects, or development of local government-owned
28 facilities. ~~When~~ If more than one local agency expresses an interest
29 in the surplus state real property, priority shall be given to the local
30 agency that intends to use the surplus state real property for
31 affordable housing. If no agreement or transfer of title occurs, the
32 priority shall next be given to the local agency that intends to use
33 the surplus state real property for open space, public parks, or
34 development of local government-owned facilities. The sales
35 agreement shall be executed by the local agency or nonprofit
36 affordable housing sponsor within 60 days after the director
37 determines the local agency or nonprofit affordable housing
38 sponsor is to receive the surplus state real property. The sale of
39 the surplus state real property to a local agency or nonprofit
40 affordable housing sponsor pursuant to this section shall be

1 completed, and title transferred, within 60 days of the date the
2 department executes the sales agreement, or, if required by law,
3 no later than 60 days after the State Public Works Board has
4 authorized the sale. If the sale of a surplus state real property to a
5 local agency or nonprofit affordable housing sponsor is not
6 completed within the timeframe specified in this subparagraph,
7 then the department shall proceed with the process for disposal to
8 other private entities or individuals.

9 (c) (1) If more than one local agency desires the surplus state
10 real property for use as an open space, a public park, or the
11 development of a local government-owned facility, the department
12 shall transfer the surplus state real property to the local agency
13 offering the highest price above fair market value. If more than
14 one local agency desires the surplus state real property for use as
15 an affordable housing project, the department shall transfer the
16 surplus state real property to the local agency offering the greatest
17 number of affordable housing units. If more than one nonprofit
18 affordable housing sponsor desires the surplus state real property
19 for use as an affordable housing project, the department shall
20 transfer the surplus state real property to the nonprofit affordable
21 housing sponsor offering the greatest number of affordable housing
22 units.

23 (2) If no local agency or nonprofit affordable housing sponsor
24 is interested, or an agreement, as provided above, is not reached,
25 then the disposal of the surplus state real property to private entities
26 or individuals shall be pursuant to a public bidding process
27 designed to obtain the highest most certain return for the state from
28 a responsible bidder, and any transaction based on such a bidding
29 process shall be deemed to be the fair market value for the purposes
30 of the reporting requirements pursuant to subdivision (d).

31 (3) Notwithstanding any other law, the department may sell
32 surplus state real property, or a portion of surplus state real
33 property, to a local agency, or to a nonprofit affordable housing
34 sponsor if no local agency is interested in the surplus state real
35 property, for affordable housing projects at a sales price less than
36 fair market value if the department determines that such a discount
37 will enable the provision of housing for persons and families of
38 low or moderate income. Nothing shall preclude a local agency
39 that purchases the surplus state real property for affordable housing
40 from reconveying the surplus state real property to a nonprofit

1 affordable housing sponsor for development of affordable housing.
2 Transfer of title to the surplus state real property or lease of the
3 surplus state real property for affordable housing shall be
4 conditioned upon continued use of the surplus state real property
5 as housing for persons and families of low and moderate income
6 for at least 40 years and the department shall record a regulatory
7 agreement that imposes affordability covenants, conditions, and
8 restrictions on the surplus state real property. The regulatory
9 agreement shall be a first priority lien on the surplus state real
10 property and last for a period of at least 40 years, and if another
11 state agency is lending funds for a project, a combined regulatory
12 agreement shall be utilized. Notwithstanding any other provision
13 of law, the regulatory agreement shall not be subordinated to any
14 other lien or encumbrance except for any federal loan program the
15 statutes or regulations of which require a first priority lien for that
16 federal loan.

17 (4) Notwithstanding any other law, the Director of General
18 Services may transfer surplus state real property to a local agency
19 for less than fair market value if the local agency uses the surplus
20 state real property for parks or open-space purposes. The deed or
21 other instrument of transfer shall provide that the surplus state real
22 property would revert to the state if the use changed to a use other
23 than parks or open-space purposes during the period of 25 years
24 after the transfer date. For the purpose of this paragraph,
25 “open-space purposes” means the use of land for public recreation,
26 enjoyment of scenic beauty, or conservation or use of natural
27 resources.

28 (d) Thirty days prior to executing a transaction for a sale, lease,
29 exchange, a sale combined with an exchange, or other manner of
30 disposition of the surplus state real property for less than fair
31 market value or for affordable housing, or as authorized by the
32 Legislature, the Director of General Services shall report to the
33 chairpersons of the fiscal committees of the Legislature all of the
34 following:

- 35 (1) The financial terms of the transaction.
36 (2) A comparison of fair market value for the surplus state real
37 property and the terms listed in paragraph (1).
38 (3) The basis for agreeing to terms and conditions other than
39 fair market value.

(e) As to surplus state real property sold or exchanged pursuant to this section, the director shall except and reserve to the state all mineral deposits, as described in Section 6407 of the Public Resources Code, together with the right to prospect for, mine, and remove the deposits. If, however, the director determines that there is little or no potential for mineral deposits, the reservation may be without surface right of entry above a depth of 500 feet, or the rights to prospect for, mine, and remove the deposits shall be limited to those areas of the surplus state real property conveyed that the director determines to be reasonably necessary for the removal of the deposits.

(f) The failure to comply with this section, except for subdivision (d), shall not invalidate the transfer or conveyance of surplus state real property to a purchaser for value.

(g) For purposes of this section, fair market value is established by an appraisal and economic evaluation conducted by the department or approved by the department.

SEC. 2. Section 11011.15 of the Government Code is amended to read:

11011.15. (a) The Department of General Services shall maintain a complete and accurate statewide inventory of all real property held by the state and categorize that inventory by agency and geographical location. The inventory shall include all information furnished by agencies pursuant to subdivision (b) and the University of California pursuant to Section 11011.17. The inventory shall be updated annually.

(b) Each agency shall furnish the department, in the format specified by the department, a record of each parcel of real property that it possesses. Each agency shall update its real property holdings through December 31 of the previous year, reflecting any changes, by July 1 of each year. This record shall include, but is not limited to, all of the following information:

(1) The location of the property within the state and the county, the size of the property, including its acreage, and any other relevant property data which the department deems necessary. This latter requirement shall be uniformly applied to all agencies.

(2) The date of the acquisition of the real property, if available.

(3) The manner in which the property was acquired and the purchase price, if available.

1 (4) A detailed description of the current uses of the property,
2 including specific programmatic uses, and whether the property
3 is fully utilized, partially utilized, or excess, with regard to either
4 an existing or ongoing program of the agency. The agency shall
5 also provide a detailed description of every lease, license, or other
6 agreement relating to the use of the property.

7 (5) Any projected future uses of the property during the next
8 five years, as identified pursuant to the five-year infrastructure
9 plan or the agency's master plan. If the property is not included
10 in the five-year infrastructure plan or the agency's master plan, or
11 is identified as partially utilized or excess pursuant to paragraph
12 (4), the agency shall provide detailed information regarding the
13 need to continue ownership or management of the property. In the
14 case of land held for state park use, for which the projected use
15 would exceed a five-year period, the projected use and estimated
16 date of construction or use shall be furnished.

17 (6) A concise description of each major structure located on the
18 property.

19 (7) The estimated value of real property declared surplus by the
20 agency and real property where the agency has not identified a
21 current or potential use.

22 (c) The department shall prepare a separate report and shall
23 update the report annually of all properties declared surplus or
24 properties with no identified current or projected use. The report
25 shall be made available upon request.

26 (d) The head of each agency shall also certify, on or before July
27 1 annually, that the agency has accurately and completely reported
28 all property information required by this section and that it has
29 identified any excess property pursuant to Section 11011. The
30 Department of General Services shall maintain the certification
31 notices in a conspicuous place on its Internet Web site.

32 (e) *Notwithstanding any other law, a local government that has*
33 *state real property within its jurisdiction that is declared surplus*
34 *or identified as unused, underutilized, partially utilized, or excess*
35 *pursuant to this section, or Section 11011, shall not rezone the*
36 *property, unless the Department of General Services requests that*
37 *the property be rezoned or approves the rezoning of the property.*